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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,594	01/24/2002	Michael Kozak	094/1US (5500261)	3456

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EXAMINER

JOHNSON, RAYMOND B

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,594

Applicant(s)

Michael Kozak

Examiner

Johnson, R. B.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/09/2004
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

OFFICE ACTION

1. Applicant's confirmation of the telephone election, with traverse, of the Group II invention (claims 5-13) in the March 9, 2004 communication is noted. The noted communication does not include a traverse of the restriction requirement. Thus, the election is made without traverse. The restriction requirement is made final.
2. The brief description of Figures 6 and 7 on page 3, lines 2-5 appear to be inaccurate. Fig. 3 does not show lines 6-6. Lines 6-6 appear in Fig. 2.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over IDS document citation No. 1A in view of Jauch et al and Astill (6, 32) IDS cite No. 1.

Document 1A shows the claimed apparatus except for the wheel pads (claims 7-8) and the recited column lift mount and drive for rotation the vehicle support platform. See elements 21, 24; 23 and "bolts" (mount) page 2, lines 33-46; 20 (platform); 25; 20, 24(races) for bearing 25; and 10-11.

Jauch et al disclose the recited wheel pads (14, 16) and column lift mount (26) for a vehicle support platform (10) and Astill shows the recited motor (power means) for rotating a vehicle platform.

It would have been obvious to modify the vehicle handling apparatus of 1A with the "column" lift mount of Jauch et al either in lieu of or in combination with the noted mount (23, "bolts") because the respective mounts are known equivalent support means that perform the same function in the same organization to produce the same results. The bolts are for attaching the apparatus to either "the ground or other supporting surface", lines 50-53. To use power drive means as taught by Astill in lieu of manual means to pivot the vehicle platform of 1A would have been obvious because it is well settled that it is not a patentable innovation to broadly provide power means to replace a manual operation. It would have been obvious to modify 1A with wheel chocks "pads" for the purpose of maintaining the vehicle on the platform because it is a user known safety expedient as taught by Jauch et al.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over IDS document 1A in view of Jauch et al and Astill as applied to claims 5-8 and 12 in section

4 above, and further in view of the teachings of either Kendrick (2-4, 8) or Weaver (57-59, pages 1 and 3 lines 26-27, and 50-56, respectively).

Document 1A as modified shows and/or renders obvious the claimed apparatus except the recited pivotal movement of the tracks. Kendrick and Weaver teach the desirability of pivoting vehicle supporting tracks for the purposes of repairing and displaying the vehicle. Thus, it would have been obvious to construct 1A's apparatus with means to pivot the vehicle sidewise for either repair of any other intended purpose because of the teaching of the prior art as represented by the applied latter secondary references.

6. Claims 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over document 1A in view of Jauch et al and Astill as applied to claims 5-8, and 12 in section 5 above, and further in view of Ackerman (note elements A and B, Figs 1 and 3).

Document 1A, per section 4 above shows/renders obvious the claimed apparatus except for the recited hydraulic cylinder and telescopic member. Ackerman, described above, teaches the use of a hydraulic cylinder and telescopic member to lift/elevate the support base/tracks of a vehicle lift. Thus, it would have been obvious to modify the apparatus of 1A by mounting same on a conventional hydraulic lift for the purpose of lifting or elevating the support base/tracks for 1A's noted repair purpose because of the teachings of Ackerman.

7. Claims 1-5, 10-11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stukenborg in view Astill and 1A/IDS.

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Stukenborg (Figs 1-2 and 5) with respect to claims 5 and 10 shows the claimed apparatus except for an explicit disclosure of the recited conventional bearings and drive means for the rotatable vehicle support structure A (page 4, lines 84-88). Astill (6, 32) shows drive means to rotate a vehicle support structure. 1A/IDS (20, 24-25) show the recited bearing means for a rotatable vehicle platform.

It would have been obvious to modify Stukenborg's apparatus with conventional bearing as taught by 1A for rotating the vehicle support structure for the known purpose of providing easy rotation of said structure because it is taught by 1A. It would have been equally obvious to modify Stukenborg by providing power means in lieu of manual means to rotate the vehicle structure because of the teachings of Astill. It is well settled that it is not a patentable innovation to broadly replace manual means with conventional power means.

8. The claims, references, rejections, applicants remarks and arguments have been carefully considered. The remarks and/or arguments are not persuasive relative to any impropriety of the rejections. Initially, it is noted the arguments indicates a gross lack of appreciation of either the scope of the claims or structural requirement thereof. The same applies to the concept of analogous and non-analogous art. For example in considering the latter, the arguments fail to appreciate that each applied reference is directed to a single vehicle handling apparatus. The referenced "significant differences between the claimed invention and ... prior art", relative to claim 5 (amended) is by no means apparent.

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Applicant's analysis introduction of the rejections are badly flawed, e.g. note 1A and Jauch et al are both directed to device for, e.g. servicing vehicle note page 1, lines 61-77. It is submitted it would have been obvious to any novice in the art to mount 1A's apparatus upon any support surface such as 12 of Jauch et al upon a cursory review of Figs 1-2 of the respective references. Thus, it is clear the apparatus of 1A is not so limited as suggest in applicant's arguments. The basis for applicant's argument pertaining to a "continuously rotatating" device is not apparent. No such apparatus is shown in any reference nor recited in any claim.

It appears applicant is relying upon intended use and/or title of the invention to lend patentable moment to the claims. It is noted that applicant has failed to recite a single claimed element that is not clearly shown in the applied references.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Johnson whose telephone number is (703) 308-2565. The examiner can normally be reached on Monday thru Thursday from 6:30-9:30 A.M. to 5:00-8:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, E.D. Lillis, can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Raymond Johnson
Johnson/vs
June 8, 2004

Eileen D. Lillis
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